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JODIE KELLEY

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

July 30, 1997

RM-9101

William F. Caton, Secretary
Federal Communications Commission
1919 M Street, N.W.
Room 222
Washington, D.C. 20554

Re: In the matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, CC Docket No. 96-98, RM 9101.

Dear Mr. Caton:

Enclosed for filing in the above referenced proceeding, please find an original and four comments of the Reply Comments of MCI Telecommunications Corp. An extra copy has also been included to be file stamped and returned.

If you have any questions, please do not hesitate to contact me.

Sincerely,

Jodie L. Kelley

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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

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JUL 30 1997

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of:	)	
	)	
Implementation of the Local	)	CC Docket No. 96-98
Competition Provisions in the	)	RM 9101
Telecommunications Act of 1996	)	

REPLY COMMENTS OF MCI TELECOMMUNICATIONS CORPORATION

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July 30, 1997

EXECUTIVE SUMMARY

In the comments filed in response to the Commission's Public Notice, only the incumbent monopolists uniformly oppose Commission action to monitor and assess the quality of service the incumbents provide to their captive local competitors, as well as Commission action to establish meaningful enforcement measures to encourage compliance by the incumbents. Knowing full well that they have resisted meaningful performance measures, service levels, reporting and enforcement at every turn, and that only a handful of state commissions have imposed these requirements, the incumbents comfortably argue that these matters are best left to negotiation and state arbitration. If the incumbents have their way, there will be no prospect of meaningful regulation of ILEC service to their competitors.

Moreover, as the competitive local exchange carriers ("CLECs") have explained from the outset, and as U S West finally concedes, the only effective business incentive for ILECs to provide quality service to CLECs is the carrot of authority to provide in-region long-distance service. If that carrot is removed before there are specific performance requirements and reporting requirements in place, coupled with enforcement mechanisms that have some prospect of deterring ILECs from providing poor service to CLECs, local competition has little chance of ever developing.

The ILECs present five basic arguments in opposing any of the actions outlined in the Commission's Public Notice: (1) the LCUG measures would require service greater than parity and would fail to accommodate differences in ILEC systems; (2) Commission action would improperly require ILECs to improve their OSS or back-office systems, and that ILECs need only provide service at parity even if they are not providing service on reasonable terms; (3) Commission action is unnecessary because ILECs are already faced with adequate performance requirements in state agreements and state arbitration awards; (4) Commission action would improperly interfere with functions left to the states; and (5) the Commission need not become involved in technical OSS standards or performance standards because the ILECs have already fully complied with their duty to provide OSS on reasonable, nondiscriminatory terms by January 1, 1997.

The ILECs are wrong on each count. The LCUG Service Quality Measurements were developed precisely because the ILECs refused to produce historical performance data needed to establish parity. These ILECs cannot simultaneously refuse to provide such data and complain that the SQMs do not represent parity. Absent data that would demonstrate that the LCUG SQMS do not represent parity, they should be adopted. Nor is there anything in the LCI petition that would necessarily require ILECs to alter their OSS or related back-office systems. If these systems do not allow ILECs to provide service at parity, however, of if they do not allow the ILECs to provide reasonable service, then they may need to be upgraded.

The ILECs' argument that Commission action is unnecessary is simply wrong, as is demonstrated by a review of existing arbitration awards and interconnection agreements. This Commission has the authority to act to correct this problem, and should exercise that authority expeditiously. Finally, although MCI does not support establishment by the Commission of technical OSS standards at this time, ILEC claims that they are in compliance with this Commission's OSS requirements does not withstand even minimal scrutiny.

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I. THE ILECS' COMMENTS UNDERSCORE THE NEED FOR ILECS TO PRODUCE HISTORICAL PERFORMANCE DATA.

A number of ILECs claim that the measurements proposed by LCUG would require the ILECs to provide service to CLECs that is greater than parity, and that the LCUG measures would not accommodate differences in ILECs' systems. Bell Atlantic/NYNEX Comments at 6-7; U S West Comments at 2, 12, 17; PacBell/SWBT Comments at 3,5; BST Comments at 5. These arguments fundamentally misconstrue the proposals of MCI and other CLECs, and underscore the need to compel the ILECs to produce historical performance data. As discussed in Part II below, MCI and other CLECs request have not demanded service greater than parity, unless the provision of service at parity would nonetheless violate the Act's requirement that service be provided on reasonable terms.

The LCUG Service Quality Measurements ("SQMs") were developed precisely because the ILECs refused to produce historical performance data needed to establish what parity is. *See* MCI's July 10 Comments at 2, 6-7. MCI would welcome data showing that particular LCUG metrics for intervals, response times, etc. should be adjusted (downward or upward) in order to establish parity. Unfortunately, the ILECs have not produced this data. Yet somehow the ILECs are able uniformly to declare that the LCUG SQM metrics would require service greater than parity. *The Commission should demand production of any data supporting -- or refuting -- this conclusion*. If the ILECs are in possession of historical performance data bearing on the reasonableness of the LCUG SQM metrics, they must come forward with that data so that the Commission and all interested parties may review and analyze the data to empirically determine parity performance levels. If, instead, the ILECs continue to withhold relevant information that supposedly supports their objections to the LCUG SQMs, the LCUG SQM metrics should be adopted.

The comments of the Public Service Commission of Wisconsin ("PSCW") confirm the problems CLECs and state commissions have faced because of the ILECs' refusal to produce historical performance data. The PSCW found that Ameritech failed to present comparisons of Ameritech's internal OSS response intervals, and thus that no conclusion could be drawn "that the interfaces were processing certain reseller-provided transactions in substantially the same time and manner that Ameritech provides to its own retail customers. *A comparison of the response intervals that Ameritech provides to itself is a required piece of information that is* *necessary to make such a determination.*" PSCW Comments at 2 (emphasis added).

One ILEC, GTE, claims that there are *no* internal metrics analogous to functionalities ILECs provide to CLECs. If that were true (it is not), then it is clear that GTE had no basis on which to claim that the LCUG measurements require more than parity. More likely, GTE, like other ILECs, has highly material information on performance to itself and its own customers, whether gathered for purposes of quality and process management, audits, regulatory requirements or employee performance evaluations. Production of this data will dispel once and for all the notion that ILEC-to-CLEC functions have no analogue in internal ILEC functions.

MCI believes that ILECs either currently measure all functions included in the LCUG recommendations, or could easily do so. The Commission should therefore establish uniform requirements for *measurement categories and measurement methodologies based on the LCUG recommendations, and should also determine default proxy benchmarks, and reporting associated with each* that will allow any interested party to determine if a particular ILEC is providing reasonable service at parity. The Commission should also reiterate its earlier statements that parity requires that the end user see no difference in service. *See, e.g.*, First Report and Order, ¶ 224 ("the equal in quality obligation . . . is not limited to the quality perceived by end users) (emphasis added). Thus, for example, if in order to turn up a particular type of service in two days, an ILEC must notify its own technician within 24 hours, the ILEC must provide a CLEC the same information within 24 hours; merely supplying the information to the CLEC in two days would not constitute parity in such a case because the CLEC could not possibly match the ILEC's performance to its end-user. The ILECs' attack on the notion of uniform standards for parity is a straw man; MCI and other CLECs have not asked the

Commission to establish specific performance intervals (except on a default basis) that would apply to all ILECs.

For the relatively few instances in which a determination of parity may not be immediately possible, it is still important to monitor the ILECs' service to CLECs to ensure that resale and unbundled elements are provided on reasonable terms, and to ensure that ILECs' service to CLECs does not deteriorate -- particularly once BOCs enter the in-region long-distance market. The data from regularly filed reports will allow interested parties, including state commissions and this Commission, to determine whether ILECs are favoring certain CLECs over others or are retreating from service levels previously provided. In addition, as discussed below, ongoing data will allow the Commission to establish minimum performance standards to meet the Act's requirement that ILECs provide resale and unbundled elements on "reasonable" terms, where a parity determination is not possible or where service at parity is so poor that it does not satisfy minimum requirements of reasonableness.

II. THE ACT AND COMMISSION REGULATIONS REQUIRE ILECS TO IMPROVE THEIR SUPPORT SYSTEMS IF THEY ARE NOT PROVIDING REASONABLE SERVICE AT PARITY.

A number of ILECs argue that the Commission cannot require ILECs to improve their OSS or related back-office systems under any circumstances, or require service greater than parity (US West Comments at 11; GTE Comments at 12-13; BST Comments at 15; Bell Atlantic/NYNEX Comments at 4). MCI agrees that an ILEC that is complying with the requirements of the Act and Commission regulations by providing access to OSS functions for resale and access to unbundled elements on terms that are nondiscriminatory *and* reasonable is not required to improve its OSS or related back-office systems.[1] However, an ILEC not meeting the independent requirements of reasonableness and parity may well have to improve its systems and business processes in order to comply with the Congressionally mandated directives in the Act.

Thus, an ILEC that is providing service to itself superior to service it provides to CLECs may well have to modify its OSS and related support processes and systems to prevent discrimination against CLECs.[2] The parity requirements of the Act dictate that CLECs must have an opportunity to provide to end users the same service provided by ILECs to their end users. Second, an ILEC that is meeting parity but is providing inadequate service -- because it is concentrating on other market segments, is incompetent, or for any other reason provides inadequate service --- will also have to modify its support systems or improve its efforts. MCI and its would-be customers should not, for example, be subject to 30-day delays in receiving loops, even if the ILEC provisions loops for itself within 30-days.

The default benchmark measurements necessary to establish levels of reasonable service might not necessarily be the intervals, response times, etc. suggested by LCUG, but would be developed based on historic and ongoing reports from all ILECs. At the very least, the

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[1] Assuming that an ILEC is already meeting the Act's standards of reasonableness, the Commission's regulations allow CLECs to require, and pay for, service greater than parity. 47 C.F.R. §§ 51.305(a)(4), 51.311(c). These provisions were struck down in *Iowa Utilities Board v. FCC*, slip op. no. 96-2231 (8th Cir. July 18, 1997). Even if this aspect of the court's decision is not overturned, it does not affect the issue presented here: an ILEC's duty to meet the Act's requirement of reasonableness is independent of its requirement of nondiscrimination.

[2] To the extent the discriminatory results are caused by lack of effort or misconduct on the part of the ILECs, all that may be required is additional effort without modification of any systems.

Commission should provide guidance, as requested by the PSCW, "in defining an achievable level of operability that states should expect of OSS functions." *See also* Comments of the People of the State of California and the Public Utilities Commission of the State of California on Petition for expedited Operations Support Systems Rulemaking (July 10, 1997) at 7 (FCC should establish minimum national standards).

III. THERE IS A COMPELLING NEED FOR COMMISSION ACTION BECAUSE ILECS HAVE SUCCESSFULLY RESISTED PERFORMANCE MEASURES, DETAILED REPORTING, AND ENFORCEMENT MECHANISMS IN STATE NEGOTIATIONS AND ARBITRATIONS.

The ILECs further argue that the arbitration process is working to establish performance measurements and reporting requirements in interconnection agreements, and that carriers are already subject to adequate service quality standards set by state commissions. *See, e.g.,* Ameritech Comments at 6-7; BST Comments at 16; BA/NYNEX Comments at 3,5; U S West Comments at 19. The opposite is true. With very limited exceptions, ILECs have refused to provide internal reports needed to establish parity, have refused to agree to sufficiently comprehensive, specific performance requirements, have refused to agree to produce reports on an ongoing basis sufficient to establish whether parity requirements are being met, and have refused to agree to automatic, substantial credits needed to encourage ILEC compliance. It is therefore not surprising that the ILECs failed to include with their comments evidence of all performance-related requirements to which they are subject, as the Commission requested in the Public Notice establishing this proceeding.

In its initial comments, MCI submitted examples of state commission decisions in which the commission refused to require specific performance measurements, reporting, and/or enforcement mechanisms. Attached as exhibits to this filing are additional examples of state decisions or agreements which provide only general assurances of parity without the specific measures, standards, reporting requirements and/or credits needed to ensure that service is provided at parity. The Virginia State Corporation Commission, for example, rejected MCI's request for specific performance requirements and instead included only a general requirement of parity and reporting "on all measures that are reasonably related to establishing the parity level and whether MCI is receiving services at parity." *See* Ex. A hereto, at 6. No further detail is included as to what functions must be measured, what service levels must be met, or the level of detail required for reports, and there is no provision for credits.[3] Although MCI understands that the Virginia commission continues to investigate the area of performance requirements, no specific requirements were imposed on Bell Atlantic as part of MCI's arbitration.

MCI obtained similarly inadequate results in several other states in the Bell Atlantic region. *See, e.g.*, Award and Opinion to [New Jersey] Board of Public Utilities (December 19, 1996) at 37-38 (attached as Ex. C). State commissions in the Bell Atlantic region declined to impose specific parity requirements or credits, suggesting that these were issues for the parties to negotiate on their own. Bell Atlantic, however, generally refused even to discuss specific performance measurements and service levels, refused to provide complete historical data needed

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[3] *See also* Order Resolving Non-Pricing Arbitration Issues and Requiring Filing of Interconnection Agreement, *Petition of MCI Telecommunications Corporation and MCImetro Access Transmission Services of Virginia, Inc.* (VA PUC Case No. PUC960124) (January 3, 1997), at 15-16 (same) (attached as Ex. B).

to establish specific parity requirements, and refused to discuss credits.[4] It is therefore of no solace to MCI that Bell Atlantic recently agreed, as a condition to Commission approval of its merger with NYNEX, simply to *negotiate* in response to "reasonable requests to establish performance standards," and only to negotiate enforcement mechanisms.[5] MCI made reasonable requests *17 months ago*, and Bell Atlantic should have negotiated in good faith already. Bell Atlantic's commitment to negotiate is meaningless in light of its prior conduct. Absent specific requirements from this Commission on performance measurements, methodologies, reporting and enforcement mechanisms, Bell Atlantic will continue to escape any such requirements.

It is thus important to emphasize that LCI's request for Commission action did not come at the outset of the state arbitration process. The state arbitration process is far along, and the overwhelming majority of states do not have adequate provisions for performance measurements, reporting and enforcement.

The failure of the state negotiation process is particularly acute in the area of performance credits. Only a few states have anything resembling substantial credits needed to encourage ILEC compliance with service requirements. And the little experience to date with monetary penalties confirms the CLECs' doubts that monetary credits alone will have any impact. The

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[4] MCI's original proposals concerning performance measures are contained in its October, 1996 draft contract (relevant portions attached hereto as Ex. D). Like the LCUG SQMs, the performance measures and standards contained in MCI's original contract offer represented an opening position developed without the benefit of historical data which Bell Atlantic refused to provide. Although Bell Atlantic must provide certain performance reports in Pennsylvania, it is not subject to any service-level requirements or standards.

[5] Letter dated July 19, 1997 from Thomas J. Tauke and Edward D. Young, III to Kathleen Levitz, FCC, ¶ 7, *Application of Bell Atlantic Corporation and NYNEX Corporation for Consent to Transfer, NSD-L-96-10.*

Iowa Utilities Board, for example, on April 4, 1997, imposed on U S West a civil penalty of $10,000 per day for U S West's failure to comply with the implementation schedule approved by the Board, including a requirement for providing information on performance standards to MCI.[6] Despite the vigilance of the Board, U S West still has not fully complied with the Board's order *after more than three months of noncompliance, at the cost of $10,000 per day.*[7]

BellSouth claims that its interconnection agreements with AT&T include all necessary provisions relating to performance measures, and that these provisions are available to any other carrier. BellSouth Comments at 3. There is a threshold question whether BellSouth remains willing to extend these provisions to any requesting carrier notwithstanding the recent decision of the Eighth Circuit. In any event, the performance-related provisions in the BellSouth/AT&T agreements are inadequate. For example, the agreement contains no measures or targets related to pre-ordering, and thus CLECs have no ability to determine whether they are achieving parity at this critical first contact point with a local customer. Nor does the agreement address notification of order completion. This is a critical measure which CLECs need to monitor installation performance, and to determine at what point the CLEC should begin to bill a customer.

Where performance measures are included, they are woefully inadequate, providing for measures that lack sufficient detail to be meaningful. For example, the "time to restore"

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[6] *See* Order Finding Continuing Violation and Levying Civil Penalties (Iowa Dept. of Commerce Util. Bd.) (April 4, 1997) (Ex. E hereto).

[7] *See* MCImetro's Second Motion to Compel, *AT&T Communications & MCImetro Access Transmission Services v. U S West Communications* (Iowa Dept. of Commerce Util. Bd.) (June 25, 1997) (Ex. F hereto).

measurement does not differentiate between in-service and out-of-service trouble, nor does it differentiate between trouble requiring a dispatch and that not requiring a dispatch. Similarly, the agreement contemplates a measurement related to billing errors, but no significant detail is provided. The Bell South/AT&T agreement simply does not embody adequate performance monitoring requirements.

Similarly unavailing are the ILECs' arguments that existing state regulations are adequate to ensure reasonable service at parity from ILECs to CLECs. BA/NYNEX Comments at 5. No existing state regulations are cited by the ILECs. As they well know, existing state regulations are concerned with service to *the ILEC's own end users*, not service from an ILEC to a CLEC. As aptly noted by the Minnesota PUC,

> the Commission's existing rules have little to do with the quality of service one company provides another in today's emergingly competitive market. The rules were adopted nearly 20 years ago, far removed from the competitive issues and modern technology of today. Moreover, *they address a carrier's obligations to end-users, not its obligations to competing co-carriers.*

Order Resolving Arbitration Issues, *AT&T Communications, MCIMetro Access Transmission Services, Inc. et al.* (Minn. PUC No. P-442) (Dec. 2, 1996), at 55 (relevant portions attached hereto as Ex. G).

Although most state commissions have not imposed adequate provisions for ILEC to CLEC performance measures, service levels, reporting and enforcement, the suggestion that states have considered and uniformly rejected the need for such measures (*see, e.g.*, GTE Comments, p. 21-22), is equally untrue. Although no state has ordered the full relief needed to ensure ILEC performance at parity, a few state commissions have imposed many of the necessary elements. The Minnesota Public Utilities Commission, for example, squarely rejected

U S West's "vague proposal to measure quality according to its own 'average performance' in a list of four broad areas," and instead imposed specific Direct Measures of Performance, together with credits including $25,000 per day charges for impermissible delays.[8] ILECs such as U S West should not be permitted to elude parity by agreeing only to "vague proposals" to measure parity in "broad areas" in all but one or two states in its region.

In light of severe resource constraints and time pressures, as well as uncertainty as to the meaning of the Act's requirement for parity, many representatives and staff of state commissions have expressed to MCI a desire for guidance from this Commission relating to the difficult but pivotal issues of performance measures, standards and enforcement. Consumers should be given at least the prospect of effective local competition nationwide, not sporadically in only a few states that have imposed meaningful performance measures and credits. Indeed, the purpose of section 251(d)(1) of the Act is to allow for uniform requirements established by the Commission, rather than different requirements in every state governing which ILEC functions should be measured and how they should be measured and reported, as well as different requirements in every state for what constitutes a minimal level of "reasonable" service to satisfy the Act. It would be particularly difficult, if not impossible, to accomplish necessary benchmarking without substantial uniformity in the type of information collected, methodologies for measurements, and frequency and content of reports.[9]

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[8] Order of Minn. PUC, *supra*, at 55-57.

[9] The Commission's authority to issue such regulations is clear. Even under the narrow reading of that authority rendered by the Eighth Circuit in Iowa Utilities Bd., et al. v. FCC, et al., Docket Nos. 96-3321, et al. (8th Cir. July 18, 1997), the Commission has authority pursuant to section 251(d)(2) of the Act to promulgate regulations respecting the non-price aspects of

IV. COMMISSION ACTION IS APPROPRIATE UNDER THE ACT AND WOULD NOT IMPROPERLY DISRUPT STATE ACTIONS.

The ILECs generally argue that uniform requirements would interfere with or "wreak havoc" on state agreements and enforcement processes, *see, e.g.*, PacBell/SWBT Comments at 10-11. To the contrary, performance-related requirements in interconnection agreements would continue to be enforced as authorized by law, including, at a minimum, enforcement by the applicable state commission. Regulations established by this Commission would provide a specific basis for interpreting and enforcing the general requirements of reasonable and nondiscriminatory access contained in existing interconnection agreements, would provide specific terms for not yet completed agreements, and would provide a basis for the relevant state and federal enforcement authorities to fulfill their responsibilities. Nothing in these requirements for proper data collection and reporting would interfere with state authority or conflict with the Eighth Circuit's decision. Based on the performance reports, states could more easily establish parity requirements specific to each ILEC. The same reports could be used for purposes of any other remedies available by law (such as antitrust actions or Commission-imposed penalties).

Moreover, as noted above, the function of analyzing performance reports from ILECs throughout the country in order to establish minimum levels of reasonable service is uniquely a function for this Commission, not individual states. This Commission will have access to

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unbundling generally, as well as the specific requirement of unbundling of OSS. In so doing, of course, the Commission must respect the congressional command that unbundled elements be provided in a reasonable and non-discriminatory manner. § 251(c)(3). In any event, MCI continues to believe that the Commission has authority to issue these regulations pursuant to 47 U.S.C. §§ 251(d)(1), 201, 154(i) and 303(a), and that the U.S. Supreme Court will reaffirm that authority.

nationwide data and will be able to avoid differing state requirements of what constitutes reasonable service. In short, it is multiple, inconsistent requirements for reporting and service levels, not uniform requirements, that would "wreak havoc" on the industry. As stated by the California PUC, "National standards will prevent potentially duplicative efforts by state utility commissions to develop their own standards . . .". Comments of the State of California and the California PUC at 7.

It is critical that uniform requirements are enacted *before* BOCs are given authority to provide in-region interLATA service. As U S West acknowledges, the key incentive for BOCs to provide quality service at parity to CLECs is the carrot of entry into the in-region long-distance market. U S West Comments at 21. Once that carrot is removed, BOCs will have no incentive to cooperate with their competitors. Although U S West claims that it has an additional incentive to create efficient access to OSS in order to reduce costs, U S West Comments at 21, ILECs clearly have no incentive to reduce *CLECs'* costs. To the contrary, it is a basic economic truth that it is in the interests of a monopolist to *raise* its rivals' costs. See Steven C. Salop and David T. Scheffman, Raising Rivals' Costs. 73 Am. Econ. Rev. 267 (1983); Thomas G. Krattenmaker and Steven C. Salop, Anti-Competitive Exclusion: Raising Rivals' Costs to Achieve Power Over Price, 96 Yale L.J. 209 (1986). Forcing a CLEC to interface through cumbersome, manual, error-filled and costly interfaces will harm CLECs, to the *benefit* of incumbents seeking to preserve market share. Thus, apart from the benefit of entry into the in-region long-distance market, BOCs have no incentive to provide quality service to competing providers. It is therefore imperative that strict performance requirements are in place before the BOCs are given in-region long-distance authority and lose all incentive to provide even the semblance of cooperation to CLECs.[10]

GTE stands alone in arguing that if it provides poor resale service to CLECs, CLECs can simply bypass its network. GTE Comments at 16. Under this novel view, ILECs do not have to comply with certain key provisions of the Act (the duty to provide resale on reasonable, nondiscriminatory terms) as long as they do not prevent CLECs from providing service using their own facilities. As the Commission has recognized, however, ILECs must allow competitors to use any of the three entry methods -- resale, unbundled elements or CLECs' own facilities. The Act requires that resale be provided on reasonable, nondiscriminatory terms because there is no meaningful competition in the provision of services on a wholesale basis. The Commission has recognized the importance of resale for precisely this reason. See, e.g.,

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[10] Some BOCs further argue that Commission regulations concerning performance measures would unlawfully expand the competitive checklist. Ameritech Comments at 11-12; BellSouth Comments at 19. The fallacy of this argument, of course, is that the requirement to provide unbundled elements, including OSS, and resale on reasonable, nondiscriminatory terms is *explicitly* required in the competitive checklist. 47 U.S.C. §§ 271(c)(2)(B)(i), (ii) & (xiv). Indeed, to excuse the requirement of reasonable and nondiscriminatory access would constitute a limitation of the checklist, expressly forbidden by section 271(d)(4) of the Act. Finally, even apart from the requirements of the checklist, the existence of adequate performance measures, reporting and sanctions prior to BOC entry should be a critical part of the separate public interest analysis required by section 271.

Ameritech's claim that CLECs are attempting by this rulemaking to delay 271 applications is misguided. In addition to the fact that many commenters who are not interexchange carriers supported the LCI petition, Commission action will expedite the 271 process by clarifying the applicable standards. The BOCs have been quick to argue in other contexts that more clarity is needed to advise them of the applicable 271 standards. As it stands, however, a necessarily vague case-by-case determination must be made whether adequate performance requirements are in place in order to satisfy section 271. MCI and other commenters propose substitution of firm, definite rules through an expedited rulemaking. *See, e.g.,* DoJ Oklahoma Evaluation (May 16, 1997) at 47-48.

First Report and Order, ¶ 907.

Equally important, GTE ignores the fact that competitors are dependent on incumbents' networks and their OSS not only for resale, but also for all other service delivery methods, including unbundled network elements. In short, if ILECs are providing poor service to CLECs, CLECs have nowhere else to turn. CLECs do not have a choice among local service providers.

V. THE ILECS REMAIN OUT OF COMPLIANCE WITH THE COMMISSION'S REQUIREMENT FOR NONDISCRIMINATORY, REASONABLE ACCESS TO RESALE AND UNBUNDLED ELEMENTS.

MCI made clear in its initial comments that it does not support Commission rules at this time on technical OSS standards, although it will be important for the Commission to monitor the progress of national standards bodies and oversee implementation timelines. For this reason, the ILECs' arguments concerning OSS technical standards issues are largely irrelevant. Nevertheless, the ILECs' ludicrous claims that they already fully complied with all OSS-related requirements in the Act and the Commission's regulations -- and did so by January 1 of this year -- cannot go unnoticed. Although MCI believes that the Commission should not establish technical OSS standards at this time, the Commission should not be under the illusion that ILECs are even close to implementing adequate OSS that meets the Commission's rules. The attached declaration of John Ruja briefly highlights some of the many ongoing deficiencies in ILECs' OSS.

VI. THE COMMISSION SHOULD SET A FIRM DATE BY WHICH THIS PROCEEDING WILL BE COMPLETED, AND SHOULD USE ALL DISCOVERY MECHANISMS AVAILABLE TO ENSURE THAT IT IS PROVIDED WITH ADEQUATE DATA.

MCI generally endorses the LCI comments regarding the manner in which the Commission to proceed. Delay is extraordinarily harmful and the Commission must set a firm deadline by which this proceeding will be concluded.

MCI also reiterates that it will be critical for the Commission to use all discovery tools available to it, including its power to subpoena documents or witnesses. The ILEC comments merely highlight their reticence to provide meaningful data. There is no reason to believe that this will change as this proceeding continues.

CONCLUSION

For the foregoing reasons, as well as those contained in MCI's opening Comments, MCI requests that the Commission begin an expedited rulemaking to establish uniform requirements for measurement categories and measurement methodologies based on the LCUG recommendations, default proxy benchmarks, reporting associated with each and appropriate enforcement mechanisms.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Jodie L. Kelley, do hereby certify that copies of the foregoing "Reply of MCI Telecommunications Corp." were served via first class mail, postage prepaid, to the following on July 30, 1997.

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